

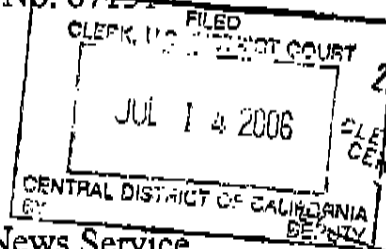
**SCHAPIRO DECLARATION
EXHIBITS CONTINUED**

Schapiro Exhibit 180

1 Francis C.J. Pizzulli, State Bar No. 67151
 2 718 Wilshire Boulevard
 3 Santa Monica, CA 90401
 4 Tel: (310) 451-8020
 Fax: (310) 458-6156
 francis@pizzulli.com

Attorney for Plaintiff

Robert Tur d/b/a Los Angeles News Service



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 CLERK U.S. DISTRICT COURT
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 LOS ANGELES

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA

CV 06-4436 GAF

11 ROBERT TUR d/b/a LOS ANGELES
 12 NEWS SERVICE,

Case No.

COMPLAINT

13 Plaintiff,

1. Copyright Act
2. California Unfair Competition
 Law, Cal. Bus. & Prof. Code
 §17200 *et seq.*

14 v.

15 YOUTUBE, INC.,

16 Defendant.

JURY DEMAND

17
 18
 19 Plaintiff Robert Tur, doing business as Los Angeles News Service, alleges
 20 for his complaint as follows:

21 JURISDICTION AND VENUE

22
 23
 24 1. This action seeks damages and injunctive relief for copyright
 25 infringement under the Copyright Act, 17 U.S.C. §101 *et seq.*, and for equitable
 26 relief under the California Unfair Competition Law, Cal. Bus. & Prof. Code,
 27 §17200 *et seq.* ("UCL").
 28

1 registrations for segments of newsworthy videotape footage. Among his awards
2 for journalism and heroism, Plaintiff has received three television news Emmys,
3 the Edward R. Morrow Award for broadcast excellence, and the George Foster
4 Peabody Award.
5

6 8. LANS' library is composed of over 10,000 hours of copyrightable
7 audiovisual works, pursuant to 17 U.S.C §§101-102. Plaintiff's tape library
8 includes works such as Tur's first-on-the-scene tracking of the ignominious 1994
9 freeway chase of O.J. Simpson (PA-733-108). In 1992, the Turs reported
10 exclusively over the intersection of Florence and Normandie the shocking attack
11 upon Reginald Denny at the start of the 1992 Los Angeles riots (PA-576-704).
12
13
14

15 9. LANS' library's value is exemplified by its licensing for retail sale of
16 several compilations of its copyrighted works illustrative of Plaintiff's innovative
17 helicopter news gathering in capturing and narrating the first live broadcast of
18 high-speed vehicle pursuits, and in covering wild fires, earthquakes, and other
19 natural disasters.
20
21

22 10. Over the past two decades, Plaintiff's works have been infringed
23 numerous times by various media companies. Plaintiff has had to expend millions
24 of dollars to protect his copyright interests. In so doing, he has helped the
25 copyright owners of newsworthy works generally in successfully litigating
26 limitations to the assertion of "fair use" as an excuse for pirating his copyrights.
27
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1 *See, e.g., Los Angeles News Service v. CBS Broadcasting, Inc.*, 305 F.3d 924 (9th
2 Cir. 2002); *Los Angeles News Service v. KCAL-TV Channel 9*, 108 F.3d 1119 (9th
3 Cir. 1997); *Los Angeles News Service v. Tullo*, 973 F.2d 791 (9th Cir. 1992).

4
5 11. In recent years Tur and other copyright owners faced the threat of
6 even more pervasive infringements on a worldwide basis through peer-to-peer file-
7 sharing software and websites distributing such software *gratis*. The pernicious
8 threat of a "copyright-free" Internet poses a huge obstacle to small news
9 organizations, if not also a significant problem for large media companies.
10
11 However, in June 2005, the United States Supreme Court decided *MGM, Inc. v.*
12 *Grokster Ltd.*, (___ U.S. ___, 125 S. Ct. 2764 (June 27, 2005)), which ostensibly
13 provides clear limits to the abuse of copyright infringement via the Internet by
14 means of contributory infringement.
15
16

17
18 12. Nevertheless, Tur discovered in July 2006 that various of his
19 copyrighted works were being distributed, copied, and publicly displayed
20 throughout the world through Defendant YouTube's website, YouTube.com.,
21 without a license or his permission. These infringements are occurring on a
22 substantial scale as measured by YouTube.com's own view counter feature. For
23 example, PA-576-704, "Beating of Reginald Denny," has been infringed in excess
24 of 5,500 times through at least three bootlegged version. In less than a week's
25 time, one version alone had over 1,000 additional views downloaded.
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1 13. The other copyrighted works of Plaintiff infringed via YouTube.com
2 include, but are not limited to, the following:

- 3 a. PA-576-702: "Beating of man in brown hatchback with
4 rescue;"
5
6 b. PA-576-703: "Beating of man in white panel truck;"
7
8 c. PA-839-603: "Earthquake;" and
9
10 d. PA-862-544: "North Hollywood shootout."

11 14. In May 2005, YouTube's predecessor entity, YouTube, LLC, had
12 given a public preview of its website and service, which was designed to enable
13 persons worldwide to share videos through the Internet. Like Grokster – and
14 Napster before it-- YouTube directs its market development to the youthful user
15 base familiar with sharing digitized audiovisual media, including copyrighted
16 recordings, films and video – i.e., subject to protection under 17 U.S.C. §102
17 (whether registered or not, pursuant to 17 U.S.C. §§407-410). YouTube explicitly
18 courts the "new clip culture," describing itself as "the leading video entertainment
19 destination on the Internet." As one of YouTube's board members proclaims,
20 "YouTube is at the forefront of a cultural shift in digital media entertainment and
21 media distribution"

22 15. YouTube.com is not merely *Grokster redux*. For unlike the peer-to-
23 peer file sharing systems at issue in the *Grokster* case, YouTube provides the
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1 computer servers and "world-class data centers" which allow users to upload video
2 clips directly to YouTube's servers. From there, they can be publicly viewed and
3 copied through downloading by any user of the Internet, at no charge to either the
4 uploader or the downloader. YouTube also allows video embedding, which lets
5 users insert a YouTube video into "blogs, or other Websites where anyone can
6 watch them." Thus, unlike the peer-to-peer file-sharing model, YouTube's
7 business model allows it to have actual knowledge of what particular copyrightable
8 files are being distributed, played and copied through its service.

12 16. While substantial use of YouTube's website was and is made by users
13 uploading their own homemade videos, which they impliedly license to YouTube,
14 by the time of YouTube's official public release, it was becoming clear to its
15 principals that its users were sharing more than just their own videos, and that
16 membership stretched far beyond just circles of friends. For example, consumers
17 viewed, millions of times, copyrighted material from major television networks,
18 e.g., NBC, Fox, and cable networks, the same pool of clients that Plaintiff licenses
19 his works to.

23 17. Nevertheless, after incorporating in October 2005, Defendant, with
24 the aid of experienced counsel and with funding from an established venture
25 capital firm, went forward with its site's official public release on December 15,
26 2005.
27
28

1 18. What was originally started in February 2005 -- pre-*Grokster* decision
2 -- as a "personal video sharing service," has morphed and grown "into the leading
3 video entertainment destination on the Internet," with people watching more than
4 70 million videos on the site daily, according to Defendant. This massive
5 dissemination is to a present average of 6 million unique users per day. Its video
6 clip holdings are enriched daily by more than 60,000 uploads of new copyrighted
7 and uncopyrighted or licensed videos. Presently, YouTube is the most-visited
8 video site on the Web.

9 19. Moreover, the scope of the infringements is akin to a murky moving
10 target, in that videos uploaded are not identified by copyright owner or registration
11 number, but rather by the uploader's idiosyncratic choice of descriptive terms to
12 describe the content of the video -- "tags" -- making it extremely impractical to
13 identify Plaintiff's copyrighted works.

14 20. Even though YouTube's website allows for non-infringing copying
15 and public display of videos, it also necessarily intended to promote infringement
16 of copyrighted works. Defendant aimed to satisfy in part a known source of
17 demand for copyright infringement, e.g., the market comprised of former Grokster
18 video "sharers." Among such market participants are the community of users who
19 are against copyright protection, and who even have their videotaped diatribes for a
20 "free" Internet displayed on YouTube.com as among the top most talked about

1 videos. Second, prior to its official public release, YouTube failed to develop any
2 substantial filtering tools or other mechanisms to diminish the infringing activity.
3 This failure continues to the present despite YouTube's expenditure of significant
4 funds on developing world-class data centers while at the same time it knows it is
5 being perceived by mainstream media as a "bootleg-heavy site." Third, YouTube
6 has already commenced what it identifies as its strategy in "pursuing advertising as
7 its business model," that is, a model which rewards high-volume use, including
8 that of infringing uses, with greater advertising revenue, as revenue is correlated to
9 usage. The more users YouTube is able to attract, the more pirated videos
10 YouTube will be able to offer, and the more attractive YouTube will be to other
11 potential users.
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16 21. YouTube enables this massive infringement to occur by providing
17 Internet users with a fully integrated network of central computer servers to which
18 they connect and which can handle about 110 video formats and 64 audio formats
19 used by digital photo and video cameras and cell phones; and a continuously
20 updated database of millions of copyrightable videos. Plaintiff's works, some of
21 which are readily available for sale by consumers at retail video stores, are
22 particularly vulnerable to being uploaded and "liberated" on the Internet by those
23 members of YouTube's community who do not believe in copyright right
24 conscious and deliberate copyright infringement, however, may be no less an
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1 unlawful taking of property than garden-variety theft. *See Grokster, supra*, 125. S.
2 Ct. at 2793 (Breyer, J., concurring).
3

4 **FIRST CLAIM FOR RELIEF**

5 **(Copyright Infringement – Direct, Contributory and Vicarious)**

6 22. Plaintiff incorporates herein by reference paragraphs 1-22 set forth
7
8 above.

9 23. An infringement occurs each and every time one of the millions of
10
11 YouTube users, without authorization of the copyright owner, uploads a
12 copyrightable video to YouTube.com's centralized servers, thus offering it for
13
14 distribution; and each time a YouTube user views or downloads another user's
15
16 video file from these servers into his or her own computer, resulting in an
17
18 unauthorized public performance and/or copy, or even a derivative work if there
19
20 has been a transformative use (e.g., crossing a soundtrack of the Simpsons singing
21
22 over the video component from an episode of *All in the Family*).

23 24. Despite uninterrupted awareness of continuous infringing activity,
24
25 YouTube has willfully engaged and continues to engage in the business of
26
27 unauthorized reproduction, distribution, and/or public performance of copies of
28
copyrighted works, therefore infringing on Plaintiff's copyrights and his exclusive
rights under 17 U.S.C. §106.

1 25. The infringement of each of Plaintiff's rights in and to the
2 copyrightable videos constitutes a separate and distinct act of infringement.

3
4 26. YouTube's conduct also constitutes contributory and vicarious
5 copyright infringement of Plaintiff's copyrights.

6 27. For each separate infringement, Plaintiff is entitled to damages and
7 Defendant's profits, pursuant to 17 U.S.C. §504(b).

8
9 28. Alternatively, Plaintiff is entitled to statutory damages with respect to
10 each work willfully infringed in the amount of \$150,000, or such other amounts as
11 determined under 17 U.S.C. §504(c).

12
13 29. Plaintiff is also entitled to his attorneys' fees and costs pursuant to 17
14 U.S.C. §505.

15
16 30. YouTube continues to cause Plaintiff substantial irreparable injury,
17 and Plaintiff has no adequate remedy at law. Plaintiff is entitled to preliminary and
18 permanent injunctions prohibiting further direct, contributory and vicarious
19 infringements of Plaintiff's copyrights, pursuant to 17 U.S.C. §502.
20
21

22 **SECOND CLAIM FOR RELIEF**

23 **(California Unfair Competition Law Violations)**

24
25 31. Plaintiff incorporates herein by reference paragraphs 1-22 and 23-24
26 set forth above.
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1 32. Defendant YouTube's website and business model incorporate as an
2 integral feature a structured component of unfair and/or fraudulent business acts
3 and/or practices, as prohibited by Cal. Bus. & Prof. Code §17200 *et seq.*
4

5 33. Plaintiff is entitled to preliminary and permanent injunctive and
6 equitable relief, pursuant to Cal. Bus. & Prof. Code §17203.
7

8
9 WHEREFORE, Plaintiff prays for judgment against Defendant YouTube as
10 follows:
11

12 1. On his First Claim for Relief, for damages according to proof;
13 alternatively, for statutory damages with respect to each copyrighted work
14 infringed, in the amount of \$150,000 for willful infringement or as otherwise
15 determined pursuant to 17 U.S.C. §504(c)
16

17 2. Further on his First Claim for Relief, that Defendant YouTube and its
18 agents, servants, and all persons acting in concert with it be enjoined, during the
19 pendency of this action and permanently from directly or indirectly contributorily
20 or vicariously infringing in any manner any of Plaintiff's copyrightable works.
21

22 3. On his Second Claim for Relief, for preliminary and permanent
23 equitable relief.
24

25 4. For prejudgment interest according to law.
26

27 5. For Plaintiff's attorneys' fees and costs in this action.
28

1 6. For such other relief as the Court may deem proper.

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4 Dated: July 13, 2006

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Francis C.J. Pizzulli
Francis C.J. Pizzulli
Attorney for Plaintiff
Robert Tur d/b/a Los Angeles
News Service

JURY DEMAND

Plaintiff demands a trial by jury of all issues triable of right by a jury.

Dated: July 13, 2006

Francis C.J. Pizzulli
Francis C.J. Pizzulli
Attorney for Plaintiff
Robert Tur d/b/a Los Angeles
News Service

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

Robert Tur dba Los Angeles News Service

PLAINTIFF(S)

v.

YouTube, Inc.

DEFENDANT(S).

CASE NUMBER

CV06-4436 CAF FMOx

SUMMONS

TO: THE ABOVE-NAMED DEFENDANT(S):

YOU ARE HEREBY SUMMONED and required to file with this court and serve upon plaintiff's attorney
Francis C.J. Pizzulli, whose address is:718 Wilshire Boulevard
Santa Monica, CA 90401

an answer to the ☒ complaint ☐ _____ amended complaint ☐ counterclaim ☐ cross-claim
which is herewith served upon you within 20 days after service of this Summons upon you, exclusive
of the day of service. If you fail to do so, judgement by default will be taken against you for the relief
demanded in the complaint.

Clerk, U.S. District Court

Dated: JUL 14 2006By: NORA CULLEN
Deputy Clerk

(Seal of the Court)



FRANCIS C. PIZZULLI, INC.
Law Corporation**DATE:** July 17, 2006

TO:	FAX NUMBER:
Karin B. Swope, Esq. Wilson Sonsini Goodrich & Rosati	206-883-2699
FROM:	FAX NUMBER:
Francis C.J. Pizzulli	310-458-6156

NO. OF PAGES TRANSMITTED: 15 (including cover page)**RE:** *Tur v. YouTube, Inc.*

Dear Ms. Swope:

Enclosed please find a copy of the summons and complaint in *Tur v. YouTube, Inc.* filed on July 14.

Will you accept service on behalf of YouTube?

Please feel free to contact me with any questions you have in this matter.

Thank you for your cooperation.

cc: Mr. Robert Tur (via email)

IF YOU HAVE NOT RECEIVED THE INDICATED NUMBER OF PAGES OR IF THERE HAS BEEN SOME OTHER TRANSMISSION PROBLEM, PLEASE CALL (310) 451-8020.

718 Wilshire Boulevard Santa Monica California 90401-1708
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Schapiro Exhibits 181 - 210

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